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# SUMMARY RECORD OF THE 14th MEETING

Chairman: Mrs. FLORES (Uruguay)

CONTENTS

AGENDA ITEM 140: MEASURES TO ELIMINATE TERRORISM (continued)

AGENDA ITEM 152: QUESTION OF RESPONSIBILITY FOR ATTACKS ON UNITED NATIONS AND ASSOCIATED PERSONNEL AND MEASURES TO ENSURE THAT THOSE RESPONSIBLE FOR SUCH ATTACKS ARE BROUGHT TO JUSTICE (continued)

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The meeting was called to order at 3.30 p.m.

AGENDA ITEM 140: MEASURES TO ELIMINATE INTERNATIONAL TERRORISM (continued) (A/48/267 and Corr.1 and Add.1; A/48/225-S/26009; A/48/291-S/26242; A/48/314-S/26304 and A/C.6/48/4)

AGENDA ITEM 152: QUESTION OF RESPONSIBILITY FOR ATTACKS ON UNITED NATIONS AND ASSOCIATED PERSONNEL AND MEASURES TO ENSURE THAT THOSE RESPONSIBLE FOR SUCH ATTACKS ARE BROUGHT TO JUSTICE (continued) (A/48/144; A/C.6/48/L.2 and L.3)

1. Mrs. VALDES (Cuba), speaking on agenda item 140, said that her Government firmly condemned international terrorism, which could not be analysed without examining its underlying causes, including racism, colonialism and foreign domination. While such causes in no way justified terrorist acts, they meant that the fight against terrorism, to be effective, would have to include not only repressive measures but social and economic ones as well.

2. The most dangerous form of international terrorism was State terrorism, which could cause great damage and have an adverse effect on international relations. Cuba had been the victim of numerous terrorist acts carried out by persons working for or encouraged by another State.

3. However, terrorism could not be confused with action taken by national liberation movements in their struggle for independence and self-determination. Such action had been recognized and approved by various General Assembly resolutions. Therefore, her delegation would welcome the convening of an international conference which would define international terrorism and differentiate it from the actions of national liberation movements. A working group could be set up to organize the conference; it would also be extremely useful to revive and give a new mandate to the Ad Hoc Committee on International Terrorism.

4. Ms. BAYKAL (Turkey), speaking on agenda item 140, said that as terrorism knew no borders, international, regional and bilateral cooperation in combating it was vitally important. That cooperation should include measures to eradicate the growing links between terrorist groups and arms and drug traffickers. Individual countries must remain firm, since making concessions of any nature, whether by paying ransoms or releasing convicted terrorists from prison, only served to encourage terrorism.

5. The international legal regime designed to combat terrorism continued to improve, but adherence to the international conventions on the subject would not be enough. States Parties must also bring their national legislation into conformity with the conventions, and the provisions in international conventions which called for the extradition or prosecution of terrorists must be implemented without exception.

6. All States were obliged under international law, and indeed had a moral duty, to take effective measures to prevent terrorists from using their territories to instigate, organize or engage in terrorist acts against other States and their citizens. If terrorists were used as a tool by certain

(Ms. Baykal, Turkey)

Governments as a means to a political end, those Governments should bear in mind that those who were capable of killing innocent children and women could one day turn against their erstwhile backers.

7. The idea of convening an international conference to define terrorism and differentiate it from national liberation struggles was a highly controversial one. Past experience showed that the international community would find it impossible to reach a consensus on the two subjects to be dealt with at such a conference. It would therefore only revive past controversies and might weaken the international community's determination to combat terrorism.

8. Turkey strongly endorsed the call by the World Conference on Human Rights, held in Vienna in 1993, for continued necessary steps to prevent and combat terrorism.

9. Mr. HADGES (Cyprus), speaking on agenda item 140, said that while opinions differed with respect to the legal means for dealing with terrorism, there was no doubt that the international community as a whole regarded acts of terrorism as heinous and as a potential source of disruption of friendly relations between States. His country unequivocally condemned all acts of terrorism no matter where they were committed or by whom.

10. The international community and individual States as well must work harder to increase cooperation, must take effective measures to combat terrorism in all its forms until it had been completely eliminated. In that connection, it would be desirable to achieve consensus on the convening, as called for in General Assembly resolution 46/51, of an international conference under the auspices of the United Nations, at which a draft convention on terrorism could be elaborated.

11. Until such a consensus was achieved, the existing regime of legal instruments must be ratified by all Member States. His own country was a party to a large number of the international conventions referred to in the Secretary-General's report on measures to eliminate international terrorism (A/48/267) and was actively considering the possibility of becoming a party to the others included on that list. Within its region, Cyprus had concluded agreements with several countries with a view to combating terrorism, organized crime and drug trafficking. It was, none the less, deeply concerned about reports regarding an increase in drug-trafficking activities in the occupied part of Cyprus, which was reportedly being used as a regional base for such operations.

12. His Government reaffirmed its support for the work carried out by the specialized agencies and the Secretary-General in the common effort against terrorism, from which no country was immune. The legal means to suppress terrorism were in place but they were not enough: it could be eliminated only through concerted efforts and a clear message to terrorists that their activities were self-defeating and would not be allowed to continue.

13. Mr. GALVEZ (Peru), speaking on agenda item 140, said that his country, which had itself suffered genocidal terrorism and was successfully combating that phenomenon, fully agreed that the United Nations should reiterate its unequivocal and unconditional condemnation of terrorist acts, wherever and by whomever they might be committed. His delegation was confident that questions relating to the definition and characterization of terrorism would be clarified by the work of the International Law Commission and the drafting of an international code of crimes against the peace and security of mankind. What was important at the current stage was to overcome terrorism and ensure that no Member State promoted terrorism or acquiesced in it by allowing terrorists to take advantage of its legal and political system.

14. His delegation was aware that General Assembly resolution 46/51, on measures to eliminate international terrorism, reflected a delicate political balance; however, it could still be improved. The time had come to introduce the idea that terrorism constituted a systematic and deliberate violation of human rights; he therefore proposed that the resolution on international terrorism to be adopted by the Committee should include a paragraph based on paragraph 17 of the Vienna Declaration on Human Rights, and reading: "The acts, methods and practices of terrorism in all its forms and manifestations, as well as linkage in some countries to drug trafficking, are activities aimed at the destruction of human rights, fundamental liberties and democracy, threatening the territorial integrity and security of States and destabilizing legitimately constituted Governments."

15. At the seventh presidential summit of the Rio Group, the participating Presidents had reaffirmed their condemnation of terrorism, as had also the participants at the third Ibero-American Summit of Heads of State and Government. There were many different ways for the international community to cooperate in the effort to prevent and combat terrorism. One might be to reactivate the Ad Hoc Committee on International Terrorism, which should receive a very specific mandate to promote solidarity, cooperation and exchange of information. Another way might be for the General Assembly, at its forty-ninth session, to devote a number of special plenary meetings to dealing in depth with the issue of international terrorism.

16. Mr. POSTICA (Romania), speaking on agenda item 140, said that Romania was a party to numerous international conventions on terrorism and fully endorsed the General Assembly resolutions on the subject. Since it was difficult to reach a consensus on a general definition of terrorism, States should continue to reinforce their cooperation through international judicial procedures and the exchange of information. Particular attention should be devoted to the pernicious links between terrorist groups and drug traffickers and also to violent attempts to destabilize legitimately constituted Governments, since such terrorist acts could never be considered a legitimate form of political struggle.

17. Experience had shown that terrorist acts were sometimes made possible by the failure to implement certain legal obligations, making it all the more important for the international conventions on terrorism to be implemented rigorously, and for national legislation to be brought into harmony with their provisions. It was crucial for States to unite to prevent terrorism. The end

(Mr. Postica, Romania)

of the cold war meant new duties for the members of the international community; the common goals for the States Members of the United Nations were democracy, peace and security, and solidarity was an essential means of realizing them. One of the most original contributions the United Nations could make during the Decade of International Law would be the formulation in legal terms of the concept of the "duty of solidarity", which should be implemented in accordance with the universally accepted principles of the law of nations, democracy and human rights. It was in that spirit that his delegation envisaged the work to be done in the Sixth Committee on agenda item 140.

18. Mr. KPAKPO (Benin) said that his delegation wished to speak on agenda items 140 and 152 at the same time because attacks on United Nations personnel, whatever the circumstances, were clearly acts of terrorism. His Government welcomed the initiative of the Government of New Zealand in requesting the inclusion in the agenda of the item on responsibility for attacks on United Nations personnel, particularly in the light of events in Somalia, Angola, Bosnia and Herzegovina and elsewhere.

19. Although there was a growing consensus on agenda items 140 and 152, it should not be forgotten that human nature was such that when people had nothing to lose they were capable of great cruelty, especially when defending a cause they believed to be legitimate. It should also be borne in mind that the powerful were able to organize, at no risk to themselves, punitive operations against the weak in the name of morality, justice and law. In most such cases those who lost their lives as a result of such operations were not those responsible for the terrorist acts which were being punished. Making innocents pay for terrorist crimes was also terrorism.

20. The international community must act according to the law, and it was the task of the Sixth Committee to draft legal texts and establish legal mechanisms for the collective and even-handed repression and punishment of terrorism, whoever the perpetrator. Once such legal standards were established, there could be no excuse for taking justice into one's own hands and inflicting a punishment which was out of proportion to the crime.

21. His delegation agreed with Algeria as to the urgent need for the General Assembly to formulate and adopt an international convention for the prevention and elimination of terrorism. With regard to the possibility of convening an international conference on terrorism, since the idea was not yet universally accepted it would be useful to continue to reflect on it for a while. In that connection, he noted that Benin had signed the 1970 Convention on the Suppression of the Unlawful Seizure of Aircraft and intended to accede to all the other international conventions on terrorism as soon as possible.

22. The media had enabled the international community to witness often regrettable incidents which had taken place during the various United Nations peace-keeping operations throughout the world, involving futile and intolerable violence carried out both by armed members of the United Nations forces and by uncontrolled elements of warring factions. It was worth remembering warning remarks made at the beginning of the operations in Somalia concerning excesses by certain elements in the United Nations contingent and the lack of

(Mr. Kpakpo, Benin)

coordination within the United Nations forces, and between those forces and the civilian authorities responsible for the United Nations Operation in Somalia. The people of Benin called on those involved to show reason and moderation so that United Nations operations might achieve their objectives.

23. Mr. MANGUSHO (Uganda), speaking on agenda item 140, said that the international community must act against terrorism with one voice and in a quick, precise and resolute manner. At the same time, it must desist from alarmism and other actions that were not in accord with international law and which not only increased the sense of terror within and amongst peoples, but encouraged terrorists and hardened their resolve. To that end, his delegation advocated strict adherence to action based on concrete evidence as to the identity of terrorists, their plots, the identity of their supporters and their intended targets.

24. While existing international instruments aimed at suppressing the ignominious crime of international terrorism were commendable, it was neither their volume nor their wording that would overcome terrorism, but rather the degree to which States observed them. His delegation fully supported regional arrangements designed to curtail the free operation of terrorists in the individual countries and the region concerned. Uganda was willing to join other countries in its own subregion and region in concluding similar anti-terrorism arrangements.

25. His delegation was deeply concerned about the acknowledged and increasing links between terrorist groups and drug traffickers. Another alarming development was the sale of highly destructive substances, such as weapons-grade uranium, to purchasers who had dreadful motives. The prospect of such materials being peddled the way drugs were sold in certain environments was indeed frightening.

26. While his delegation realized that the intricate connection between drugs, poverty and terrorist violence was under active consideration in other Committees of the General Assembly, it believed that it was time to add a legal dimension to such efforts, and pledged its support to such an end. An international conference should be convened, under United Nations auspices, for the purpose of developing a definition of international terrorism and differentiating it from the legitimate actions of persons and organizations engaged in struggles for the inalienable right to self-determination. References to the failure of similar efforts in the past could no longer be justified; the situation had changed, and a window of opportunity had opened for reaching a consensus on terrorism.

27. His delegation wondered about the real position of those delegations which continually referred to the changed global situation in other forums, and yet fell back on the same old disabling positions when it came to addressing the issue of international terrorism. He therefore appealed to those delegations to reconsider their positions. Any further foot-dragging on the need to evolve a uniform yardstick for international terrorism could only endanger more innocent people.

28. Mr. DZUNDEV (The Former Yugoslav Republic of Macedonia), speaking on agenda item 140, said that the problem of terrorism required careful analysis, inasmuch as all the efforts made to combat the phenomenon had shown that terrorism resulted from different types of socio-political frustrations which each society had to combat. Because of its national, regional and global implications, terrorism had to be dealt with through national and international action.

29. Noting that the Committee would be dealing with the issue of defining terrorism, he said that paragraph 17 of the Declaration adopted at the World Conference on Human Rights, held in Vienna in 1993 should be of help in efforts to find a common ground for formulating such a definition. The Committee's deliberations concerning terrorism and the resolution to be adopted should not only represent its contribution to the elimination of terrorism, but should also enhance efforts to preserve international peace and security, which had often been jeopardized by terrorist activities.

30. Mr. AL-SUWAIDI (United Arab Emirates), said that terrorism was not a new phenomenon: what was especially important was the recent increase in its intensity, the variety of forms it took and the fact that certain States adopted a policy of terrorism in order to interfere in the internal affairs of other States and disrupt their security and stability or to repress national liberation and independence movements. Consequently, new and objective monitoring of international terrorism was required with a view to ascertaining its causes, its forms and its perpetrators, so that efforts could be made to eradicate it, for terrorism created tension among States that posed a threat to international peace and security. Moreover, it interfered with the liberation of all peoples, their exercise of the right of self-determination and their attainment of independence.

31. His country supported the adoption of all lawful measures for fighting terrorism within the framework of international cooperation. However a distinction should be made between terrorism carried out by individuals, groups or States for their own advantage and acts of national liberation movements seeking to regain their freedom and their national territory. The biased description of the lawful struggles of such movements as terrorism was unacceptable and out of keeping with the many General Assembly resolutions, particularly Assembly resolution 46/51 concerning the right of those movements to struggle with every available means to achieve their freedom and independence. His country condemned terrorism in all its forms, called for the punishment of its perpetrators and would participate in any related international effort, from the determination of its causes to the establishment of the bases and criteria for its elimination.

32. Mr. AHMED (India), speaking in exercise of the right of reply under agenda item 140, said that Pakistan's thinly disguised fulminations against India in its statement at the 13th meeting of the Sixth Committee compelled him to set the record straight.

33. Mr. AKRAM (Pakistan), speaking on a point of order, said that there had been no reference to India at all in the statement in question.

34. Mr. AHMED (India), speaking in exercise of the right of reply, said that Pakistan's entire statement had been directed against his country. Pakistan had had the audacity to speak about State terrorism; yet, it was State terrorism personified. That was the clear conclusion to be drawn from a letter dated 21 July 1993 from the United States Department of State to the Chairman of the Foreign Relations Committee of the United States House of Representatives. According to that letter, although the question had been very difficult, the Secretary of State had decided not to place Pakistan on the terrorism list for the time being, because currently available evidence had indicated that Pakistan's policy of ending official support for terrorism in India was being implemented. The letter also noted that if there was a resurgence of such support, the Secretary of State would not hesitate to name Pakistan as a State sponsor of terrorism. The letter said that the United States Government had informed the Prime Minister of Pakistan that it expected him to take vigorous action to prevent private groups from providing support to terrorists and that the Secretary of State planned to review the issue no later than December 1993.

35. Pakistan had sought to camouflage within a pseudo-theoretical framework its involvement in sponsoring, aiding, and abetting terrorism. A report dated 1 February 1993 by the task force on terrorism and non-conventional warfare of the United States House of Representatives documented Pakistan's culpability in detail; according to the report, sponsoring international terrorism and separatist subversion and insurgency was not new to Pakistan. Yet Pakistan brazenly boasted of its conquests as, for example, in a recent book by an officer of the Pakistan Armed Forces, which provided a comprehensive catalogue of the terrorism techniques developed in Pakistan. India was a direct victim of Pakistan's acts. It was the Government of Pakistan which had organized the bombings in Bombay on 12 March 1993. The perpetrators of that act were still in Pakistan, and the Pakistan Government had taken no action in response to India's communications on that subject.

36. Pakistan sought to elevate its argument by talking about minorities in other countries. Yet, its own credentials in that area were worthless. Pakistan had carried out, over a period of several decades, comprehensive ethnic cleansing of its own minorities. State policy itself sought to make intolerance holy, enshrining in the constitution and law a system of apartheid for minorities and even for minority sects within the majority community. Groups of Pakistanis had languished for over two decades in refugee camps abroad because their own country was denying them the right of return. Certain citizens were disenfranchised because they refused to accept the State's designation for their creed.

37. That state of affairs contrasted sharply with the constitutional and legal safeguards and protections enjoyed by all minorities in India. In both theory and practice, India was a pluralistic society; the lunatic fringe mentioned by Pakistan did not alter that reality nor was that group supported by the majority of the Indian population.

38. Those representing Pakistan at the forty-eighth session of the General Assembly had repeatedly manifested their hostility towards India. His Government did not wish to reciprocate in kind, and desired a peaceful relationship with Pakistan. Earlier that day, his country's Prime Minister had

expressed in a message to the new Prime Minister of Pakistan the hope that the two countries could look forward to an era of peace and stability and had suggested that a comprehensive dialogue should be initiated as early as possible.

39. Mr. AKRAM (Pakistan), speaking in exercise of the right of reply under agenda item 140, said that in addressing the issue of terrorism, India should search its own soul. Indian intelligence agencies had been responsible for training terrorists in the State of Punjab, who had later turned on their trainers. As a result, the Indian Government had had to attack a Sikh Temple in Operation Bluestar, killing thousands of Sikhs. According to a book entitled Indian Intervention in Sri Lanka: the Role of India's Intelligence Agencies, Indian intelligence agencies had also been responsible for training personnel at the agency in Sri Lanka whose purpose was to promote Tamil separatism. There again, the Indian Government had been forced to suppress that agency by sending an invasion force into Sri Lanka. The book went on to say that Indian intelligence agencies had expanded their activities world wide. Those agencies were also continuing their war of destabilization in the province of Sind in Pakistan.

40. The representative of India had referred in his statement to reports published by the United States Department of State. Pakistan had enjoyed a long-standing and friendly relationship with the United States. While there had, at times, been serious differences of opinion between the two countries, such differences had been resolved and his country hoped to continue to resolve any differences through dialogue. It was totally unacceptable for India to interfere in the relationship between Pakistan and the United States, a view that was, he hoped, shared by the latter country.

41. The former Minister of Defense of India had urged the Indian Government to make every effort to have Pakistan placed on the United States list of States sponsoring terrorism; the Minister had stated that if Pakistan were placed on that list, it would be like winning a war without firing a bullet. The entire energy of the Indian Government had been directed to that end. His Government regretted that, and would continue to disappoint India in that regard.

42. But what was India if not a terrorist State? According to an editorial published on 12 August 1993 in The Times of London, Indian soldiers had been violating human rights with impunity, carrying out extrajudicial executions and torture, making citizens "disappear", and engaging in rape, arbitrary imprisonment, theft and arson. The editorial stated that contrary to the Indian Government's propaganda, the rule of law had collapsed in the region concerned; the judicial process was in a state of paralysis and constitutional rights and guarantees existed only on paper.

43. The Indian Government had stated that it was willing to have a dialogue with Pakistan; yet, two days ago, when the newly elected Government was about to take power in Pakistan, the Indian Government had said that there were still preconditions to dialogue, namely that Pakistan must stop all interference. There was no interference, as the Indian Government was well aware. India, on the other hand, had sent two additional troop divisions into Kashmir and was sending in another one: the intent was to kill the Kashmiris.

44. Mr. AHMED (India), speaking in exercise of the right of reply under agenda item 140, said he was glad that the representative of Pakistan had not denied the facts that he himself had just mentioned. A historian had aptly described the attitude of the Pakistan Government: they forgot nothing, they learned nothing. He wished to remind the representative of Pakistan that the 1972 Simla Agreement, between India and Pakistan should be honoured by both countries. His country extended its hand in friendship to Pakistan.

45. Mr. AKRAM (Pakistan), speaking in exercise of the right of reply under agenda item 140, said that it was only India's blind self-righteousness that let it claim that it had a right to point the finger at others. India must search its own soul and remember that thousands of innocent Muslims had been cruelly massacred in Bombay. He urged the international community to take action to stop the genocide in Kashmir; it must not be fooled by the false promises made from time to time by India. The Simla Agreement had been concluded 21 years ago and India had never talked seriously to Pakistan about Kashmir during that time. In 1992, when the Prime Minister of Pakistan had offered officially to engage in a dialogue under article 6 of the Simla Agreement, how had the Indian Government replied? He inquired again whether the Indian Government was prepared to have a substantive dialogue with Pakistan on Kashmir.

46. Mr. ROSENSTOCK (United States of America), speaking in exercise of the right of reply under agenda item 140, said that at the Sixth Committee's 13th meeting, the representative of the Libyan Arab Jamahiriya had spoken at some length about the Security Council's consideration of the Pan American/ Lockerbie atrocities, referring in particular to three countries which had sponsored Security Council resolutions 731 (1992) and 748 (1992).

47. He wished to make it clear that the only obligation of the Libyan Arab Jamahiriya was to comply promptly and in full with the Security Council decisions contained in those resolutions. That was the Libyan Arab Jamahiriya's clear obligation under Article 25 of the Charter. The sanctions had been applied not for their own sake but to bring home to the Libyan authorities that they must comply with the Council's decisions. In the face of the Libyan Arab Jamahiriya's long-standing failure to comply with those binding decisions, the Security Council had no option but to adopt measures to secure compliance.

48. Mr. MUBARAK (Libyan Arab Jamahiriya), speaking in exercise of the right of reply under agenda item 140, said that he wished to observe that the statement he had made at the Sixth Committee's thirteenth meeting had been instrumental in informing members that the case of the destruction of Pan American flight 103 did not concern the Sixth Committee. He had explained all the legal aspects of the case in his statement.

49. Mr. LEGAL (France), referring to agenda item 152, said that since the United Nations was actively involved in efforts to prevent or bring an end to conflicts, it had not only become vulnerable to criticism and to financial difficulties, but had also suffered losses in terms of the deaths of, and injuries suffered by, the personnel sent out on behalf of the international community for the purpose of safeguarding peace. Although human casualties were an inevitable element of any armed conflict, United Nations peace-keeping personnel were not parties to internal conflicts but soldiers of peace, and

(Mr. Legal, France)

attacks on them were therefore particularly serious. The United Nations could not afford to be indifferent to their fate, and must take every practical and legal measure possible to protect them. In the final analysis, it was the authority and prestige of the Organization itself that was at stake. The United Nations must send a very clear signal that it attached a high value to the security of its personnel.

50. The New Zealand initiative provided a means for sending that signal. Although it represented a partial approach to the issue - that of legal protection - it was worth considering. France was too involved in peace-keeping operations to be indifferent to the need to provide protection for peace-keeping personnel. With nearly 10,000 troops on the scene, his country was in a good position to appreciate the dangers to which United Nations personnel were exposed. As the Secretary-General had pointed out in his report (A/48/349), the situation had deteriorated considerably. Should the General Assembly decide to consider the New Zealand initiative on the elaboration of a legal instrument providing for criminal responsibility for attacks on United Nations personnel, his Government would contribute to the effort.

51. Turning to specific issues raised in the New Zealand proposal (A/C.6/48/L.2), he said that first, his delegation wished to make it clear that the long-term legal exercise which the proposal entailed should in no way be an obstacle to the adoption, by the competent bodies, of other measures that might contribute to the safety of United Nations personnel, as called for in General Assembly resolution 47/72. The proposed convention should in no way preclude efforts directed at examining and adopting other procedures, mechanisms and instruments that might seem appropriate, bearing in mind the urgency of the situation. Moreover, it must be borne in mind that drafting a definition of an offence would not in itself prevent such actions from being committed. The Security Council, when deciding to undertake a peace-keeping operation, should take measures to ensure the safety of the personnel involved. The Council might include, as an annex to its resolutions, a set of model provisions, which could be adapted to individual situations, establishing the safety measures required for implementation of the operation. In its resolution 868 (1993), of 29 September 1993, the Security Council had in fact expressed its willingness to consider that matter.

52. There might, of course, be cases in which the State authorities would not be in a position to take action, and in such situations, the New Zealand proposal could be useful, inasmuch as it provided for individual responsibility. Although it did not exclude the possibility of practical measures being taken or of existing mechanisms being used, the draft convention could not be considered a substitute for other legal instruments. While the New Zealand text provided for repressive measures, the problem could also be viewed from a different angle; for example, an instrument might be drawn up to establish positive obligations for the protection of personnel. That seemed to be envisaged in the report of the Secretary-General on agenda item 34, concerning the situation in the Middle East. The proposal submitted by Ukraine (A/C.6/48/L.3) seemed to take that approach, and could also be a useful contribution to the overall study of the matter.

(Mr. Legal, France)

53. Secondly, his delegation was concerned about the possibility that the draft convention might not be widely accepted by the international community. If it was ratified by only a small number of States, certain malicious individuals might consider the effort a failure, and as a result, the existing system would in fact be weakened. Hence the approach of developing a convention should be adopted only if there was widespread agreement on the matter. Preliminary studies should be conducted without haste in order to enable all States to express their reaction to the idea.

54. Thirdly, it was essential to establish clearly exactly which personnel were to be covered by the convention. It was important to determine whether forces committed by individual countries within the context of a United Nations operation would be covered as well as United Nations personnel. That was a difficult question and, at the current stage, he only wished to put the question to the Committee.

55. Fourthly, he wished to stress the need to define which offences would be covered by the instrument. In order to avoid complications in its application, the draft convention must be very specific, and should not refer to actions that did not fit within a well-defined legal category.

56. In conclusion, he said that his delegation was in favour of appointing a working group to study the question in greater depth.

57. Mr. FRENCH (Australia) said that the United Nations must do everything possible to increase the safety of and minimize the risks for personnel participating in United Nations operations. His delegation strongly endorsed the approach proposed by the Secretary-General in his report (A/48/349), which would involve action by the Security Council, the General Assembly and the Secretary-General himself. An important aspect of that approach would be a legal instrument providing for personal responsibility for individuals committing attacks on United Nations personnel.

58. Australia welcomed and strongly supported the New Zealand proposal (A/C.6/48/L.2) for a draft convention on the matter, modelled after the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and the 1979 International Convention Against the Taking of Hostages. His delegation also welcomed the useful draft provided by Ukraine (A/C.6/48/L.3).

59. He agreed with the central thrust of the New Zealand draft convention, which concentrated on creating personal responsibility for individuals who attacked United Nations personnel by making such an attack a crime punishable under the national laws of States Parties. At the same time, he would welcome efforts by other States to provide suggestions on enhancing the text. In view of the mounting toll of United Nations personnel serving in various areas, Australia believed that the Committee should move forward as quickly as possible to elaborate a convention on the subject. His delegation concurred with the suggestion by New Zealand that a working group of the Sixth Committee should be established to draft a consolidated text. That work should start immediately and might also need to be continued intersessionally. It should be possible to

(Mr. French, Australia)

conclude consideration of such a convention and to adopt it within a relatively short space of time. After all, the general mechanisms which the New Zealand draft foresaw were not new; for example, the mechanisms reflected in the provisions relating to establishment of jurisdiction and measures for prosecution or extradition had already found expression in the conventions he had just mentioned, as well as in the IMO Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf.

60. Australia agreed that protection should be extended to personnel deployed by any organization of the United Nations system, as well as personnel of any other organization or agency operating pursuant to an agreement with the Secretary-General. However, it might be necessary to define more clearly the circumstances under which United Nations personnel would be deemed to be carrying out activities in connection with a United Nations operation, especially where their deployment might not have been authorized by a Security Council resolution. His delegation was in favour of a broad approach in that regard.

61. Australia believed that a legal instrument of the type envisaged would be widely accepted and would leave potential attackers in no doubt as to their being held individually accountable for their actions, even if they were perpetrated in areas where there was no host Government.

62. Such a convention would constitute a significant step forward in increasing the safety and effectiveness of United Nations operations. It would not, of course, preclude the adoption of other measures, such as resolutions or declarations, by other United Nations bodies, but would, rather, be part of an integrated strategy that would strengthen both the rule of law and the United Nations system.

63. Ms. WILMSHURST (United Kingdom), referring to agenda item 152, expressed appreciation to New Zealand for having requested the inclusion of the item. The problem of ensuring the safety of United Nations peace-keeping forces had been highlighted in a number of recent documents, including the report of the Special Committee on Peace-keeping Operations (A/48/173), the Secretary-General's report on the security of United Nations operations (A/48/349) and Security Council resolution 868 (1993). The legal framework in which United Nations forces operated was not always clear, and the rules were not always effective. The Committee had a role to play in developing legal measures to fill those gaps.

64. Matters relating to the status of United Nations personnel vis-à-vis the host country authorities, and the privileges and immunities which they enjoyed, should be addressed in a status-of-forces agreement between the United Nations and the host country. There were often considerable delays before such an agreement could be concluded and, in some cases, countries had failed to conclude an agreement at all. In accordance with Security Council resolution 868 (1993), the Council, when considering the establishment of future United Nations operations, would require that an agreement on the status of the operation be negotiated expeditiously, and that it come into force as near as

(Ms. Wilmshurst, United Kingdom)

possible to the outset of the operation. Ideally, such an agreement should come into force prior to the outset of the operation, since once troops were in place, some of the impetus to conclude an agreement would be lost.

65. Her Government was also grateful for the draft text submitted by Ukraine (A/C.6/48/L.3), which contained many provisions covering the same subject-matter as a status-of-forces agreement. The Committee must consider whether the adoption of a multilateral convention of the type envisaged would solve the problems arising from the absence of bilateral agreements with the host country. Since a multilateral convention would be applicable only if the host country concerned was party to it, and since it could not take into account all the specific circumstances affecting various peace-keeping operations, her delegation believed that the swift conclusion of bilateral status-of-forces agreements was a better solution.

66. A second set of issues related to the rules and principles of humanitarian law applicable to United Nations peace-keeping forces. The International Conference on the Protection of War Victims, held at Geneva in 1993, had adopted a declaration stating that peace-keeping forces must act in accordance with international humanitarian law, and demanding that the members of such forces be permitted to fulfil their mandate without hindrance and that their physical integrity be respected. However, it was unclear how peace-keeping forces should treat persons detained by one side or another in a conflict - in other words, whether such persons should be referred to as detainees or as prisoners of war, and by whom they should be handled.

67. Document A/C.6/48/L.2 addressed the question of ensuring that those who carried out attacks against United Nations personnel were brought to justice under an appropriate legal regime. Under normal circumstances, the rules of territorial jurisdiction would apply, and an alleged offender would be brought to trial in the courts of the host country. However, if the host country was unable to try the offender because of the breakdown of law and order, or because the offender had escaped to another country with which it did not have extradition arrangements, or if it was unwilling to prosecute, the provisions contained in the New Zealand proposal would apply.

68. While that proposal followed the precedent established by a number of prosecute-or-extradite conventions, some of the issues involved would require careful examination. The Committee would need to discuss the extent to which the future convention should cover persons associated with the United Nations, including locally recruited civilian employees and humanitarian agencies. It would also need to consider the kinds of United Nations forces to which the convention should apply, as well as the precise nature of the criminal offences covered by the convention. Nevertheless, action on the New Zealand draft should not be delayed while the more difficult question of the application of humanitarian law was discussed.

69. Mr. KIRSCH (Canada), referring to agenda item 152, said that in earlier peace-keeping operations, United Nations personnel had generally been called in once the parties to a conflict had ceased fighting. The mandates of such operations had usually consisted of monitoring or supervising cease-fires, truces or armistice agreements, so that peace-keepers had been less likely to experience serious casualties. However, with the end of the cold war, the United Nations had been called upon to exercise a broader range of peace-keeping functions. The dangers inherent in those functions had become only too clear, as United Nations personnel were increasingly the target of hostile actions.

70. His Government believed that the time had come to take action, and that the draft proposals circulated by New Zealand (A/C.6/48/L.2) and Ukraine (A/C.6/48/L.3) constituted a useful basis for discussion. Regardless of the type of instrument to be developed, it would be necessary to determine which operations should be covered. Canada believed that attention should be focused on operations mandated and controlled by the United Nations, and that only United Nations personnel, or those having special working arrangements with the United Nations, should be covered. If an international convention was eventually adopted, questions would arise as to the method of ensuring that offenders were punished, and the definition of the crimes warranting action. The relationship between any new instrument and existing treaties should also be carefully examined.

71. Mr. NIELSEN (Denmark), speaking on behalf of the Nordic countries and referring to agenda item 152, said that it was unacceptable that United Nations personnel should be the target of attacks while carrying out their mandate in support of international peace and security. In particular, it was important to ensure that those transporting humanitarian assistance had free access to people in need regardless of national frontiers. For those reasons, the Nordic countries welcomed the initiative taken by New Zealand in requesting the inclusion of the item in the General Assembly's agenda. Furthermore, New Zealand's draft text (A/C.6/48/L.2) deserved careful consideration, as did the Ukrainian proposal (A/C.6/48/L.3).

72. It would also be useful to consider the extent to which it might be possible to codify and further develop the existing rules applicable to United Nations personnel. Another issue was the type of instrument to be developed, in other words, whether it should be a United Nations convention, an additional protocol to the Geneva Conventions of 1949, or some other legally binding instrument.

73. In general, the aim should be to establish a solid legal foundation for the protection and safety of all United Nations personnel, comprising not only penal sanctions for crimes already committed, but also preventive measures. Moreover, an attempt should be made to identify the basic humanitarian rules and principles applicable in armed conflicts. In that connection, the Nordic countries endorsed the comments made by the United Kingdom representative.

74. Mr. BIGGAR (Ireland), referring to agenda item 152, said that his Government welcomed the New Zealand initiative and expressed its gratitude to those from many countries who had risked life and limb in pursuit of humanitarian goals. The international community, having recognized the need for peace-keeping operations, must also acknowledge its obligation to protect the personnel involved.

75. The proposals submitted by New Zealand (A/C.6/48/L.2) and Ukraine (A/C.6/48/L.2) contained useful elements which might be included in a draft convention. Both drafts affirmed the duty of States to ensure the safety and security of United Nations personnel. His Government believed that such a duty was already provided for in international law, and that it was applicable not only to countries hosting peace-keeping operations, but also to all other States whose activities bore, directly or indirectly, on the safety of those engaged in such operations.

76. The New Zealand draft also sought to ensure the prosecution of individuals committing acts against the personnel concerned by providing that such acts should be regarded as crimes under the national law of States and be subject to the appropriate penalties. Related provisions were designed to ensure that those accused of such acts should be brought to justice. His delegation welcomed that emphasis in the draft and hoped that it would be reflected in a future convention. It should be borne in mind, however, that an international criminal court having jurisdiction over such crimes might be established in the future.

77. With regard to the question of those to whom the convention should apply, his delegation was concerned that both drafts were too restrictive, in that they afforded protection only to persons connected with a Security Council operation. Those carrying out an operation authorized by the General Assembly, or are not established pursuant to an agreement with the United Nations or the Secretary-General, were not included. His delegation found it incomprehensible that such personnel should lack the protection afforded by the future convention, and hoped that the scope of the definition could be broadened.

The meeting rose at 5.50 p.m.